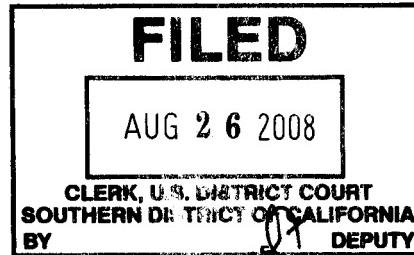


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Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) Magistrate Case No. 08MJ2261  
12 Plaintiff, ) 08-CR-2832-H  
13 v. )  
14 ESTHER BRAVO (2), )  
15 Defendant. )  
\_\_\_\_\_  
**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**  
  
(Pre-Indictment Fast-Track Program)

17       **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and James P.  
19 Melendres, Assistant United States Attorney, and defendant ESTHER BRAVO, by and through and  
20 with the advice and consent of defense counsel, Keith H. Rutman, that:

21       1. Defendant agrees to execute this stipulation on or before the first preliminary hearing  
22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
25 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.  
26 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
 2 provide the signed, original plea agreement to the Government not later than five business days  
 3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
 5 before **August 25, 2008**.

6           4. The material witness, Pedro Martinez-Lopez, in this case:

7               a. Is an alien with no lawful right to enter or remain in the United States;

8               b. Entered or attempted to enter the United States illegally on or about  
 9 July 24, 2008;

10              c. Was found in a vehicle driven by defendant at the San Ysidro, California Port  
 11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that he was an  
 12 alien with no lawful right to enter or remain in the United States;

13              d. Was paying \$3,000 to others to be brought into the United States illegally  
 14 and/or transported illegally to his destination therein; and,

15              e. May be released and remanded immediately to the Department of Homeland  
 16 Security for return to his country of origin.

17           5. After the material witnesses are ordered released by the Court pursuant to this  
 18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
 19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
 20 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
 21 attack, that:

22              a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
 23 substantive evidence;

24              b. The United States may elicit hearsay testimony from arresting agents  
 25 regarding any statements made by the material witness(es) provided in discovery, and such  
 26 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
 27 against interest of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of  
 Material Witness(es) And Order Thereon in  
 United States v. Esther Bravo (2)



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2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
8 further that defendant has discussed the terms of this stipulation and joint motion with defense  
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
11 immediate release and remand of the above-named material witness(es) to the Department of  
12 Homeland Security for return to his country of origin.

13 It is STIPULATED AND AGREED this date.

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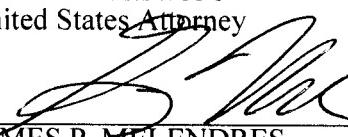
Respectfully submitted,

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KAREN P. HEWITT  
United States Attorney

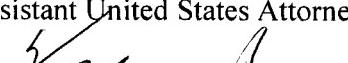
16

Dated: 8/26/08.

  
JAMES P. MELENDRES  
Assistant United States Attorney

17

Dated: 8/26/08.

  
KEITH H. RUTMAN  
Defense Counsel for ESTHER BRAVO

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Dated: 8/25/08.

  
ESTHER BRAVO  
Defendant

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Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Esther Bravo (2)

## ORDER

Upon joint application and motion of the parties, and for good cause shown,  
**THE STIPULATION** is admitted into evidence, and,  
**IT IS ORDERED** that the above-named material witness(es) be released and remanded  
forthwith to the Department of Homeland Security for return to his country of origin.

**SO ORDERED.**

Dated: 8/26/08

United States Magistrate Judge